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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,294	04/12/2004	Allen G. Farmer	STS130	2599
34356	7590	02/09/2007	EXAMINER	
ASHKAN NAJAFI, P.A.			SHAPIRO, JEFFERY A	
6817 SOUTHPOINT PARKWAY				
SUITE 2301			ART UNIT	PAPER NUMBER
JACKSONVILLE, FL 32216				3653
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE		DELIVERY MODE
3 MONTHS		02/09/2007		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/822,294	FARMER, ALLEN G.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jeffrey A. Shapiro	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 January 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 8 and 9 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 8 and 9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

DETAILED ACTION

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lopez (FR 2611952) in view of Helbawi (US 4,953,682) and further in view of Threadgill, Jr., (US 6,439,424 B1) and still further in view of Imes et al (US 6,305,054 B1).

As described in **Claim 8**, Lopez discloses a tube (1, 2) with curved (arcuate) lower portion (6) and coin mechanism (4) that allows dispensing of a ball upon payment of the correct change. Lopez also discloses top and bottom openings, each opening situated in a plane, the planes associated with the top and bottom openings being at angles to each other such that both planes intersect. Note that the top opening lies in a horizontal plane. The lower aperture connects to the opening on the side of the machine, which implies the plane in which it lies resides in a vertical or near vertical plane. Note also that such planes depend upon the location of the two openings with respect to each other, of which it is considered to be obvious to locate each opening to most efficiently allow input of balls and dispensing of balls by those who use them. Further note Helbawi, figure 2, which illustrates further that the top opening of the tube (26) is located in a plane horizontal while the lower opening attached to tube (92) is located on a vertical plane, which intersects the horizontal plane.

As described in **Claim 8**, Lopez does not expressly disclose, but Helbawi discloses a tube (26) with sensors (I0.7, I0.1, I2.1 and I0.2, for example) that detect the ball at various points within the tube, for the purpose of determining the presence of a returnable bottle. Note that sensors designated as (I0.7, I0.1, I2.1 or I0.2) for example, are described at col. 4, lines 32-37 and lines 47-51 as including proximity and photoelectric sensors, which require an aperture, or functional equivalent thereof, on the side of the tube through which a beam of light can access the ball passageway to thereby determine when a ball has passed therein.

Further regarding **Claim 8**, Helbawi further discloses an automated coin dispensing system (136) connected to said tube near a top opening of the tube for dispensing coins upon deposit of an item, such as a bottle, in the tube. Note that although Helbawi discloses deposit of bottles, it would have been obvious for balls to be handled in the same tubes.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have caused Lopez's coin mechanism to dispense coins to a customer based on detection of a ball being placed in the tube.

The suggestion/motivation would have been to promote return of the balls that are dispensed. See Helbawi, col. 1, lines 12-19 and 29-30, which describes dispensing an amount of change in return for depositing an aluminum can. It also would have been obvious to use sensors such as proximity or photoelectric sensors disposed in an aperture within the side of Lopez' tube, again, for the purpose of detecting entry of a

ball, so as to therefore provide change in return for the placement of the ball into the tube apparatus, as taught by Helbawi.

Although Lopez does not expressly disclose plural flexible mounting brackets described in **Claim 8**, it is apparent that said tube is mounted to the housing, shown in figure 1, in a functionally equivalent manner. Nonetheless, at the time of the invention, it would have been obvious to one of ordinary skill in the art to have used flexible brackets (70 and 90) as taught by Threadgill to secure Lopez's tubes.

Further regarding **Claim 8** and said flexible brackets, it further would have been obvious to use a flexible bracket such as Imes' bracket (120) as a bracket to secure Lopez's tube to a securing surface as one ordinarily skilled in the art would have been led by Threadgill's teaching of using a bracket to secure Lopez' tubes to a supporting surface, as well as Imes' teaching to use a bracket that surrounds the circumference of a tube to secure and stabilize it. See Imes, col. 2, lines 29-35.

Further regarding **Claim 8**, note that in light of Helbawi's teaching at col. 5, line 64-col. 6, line 5, of using various solenoids controlled by computer-based controller to operate the entire item return system, it would have been obvious to use solenoids powered by a power supply to control Lopez's coin acceptor/dispenser, as well as other portions of Lopez's system.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lopez (FR 2611952) in view of Helbawi (US 4,953,682) and further in view of Threadgill, Jr.,

(US 6,439,424 B1), further in view of Imes et al (US 6,305,054 B1) and still further in view of Latchinian et al (US 5,183,142).

Lopez discloses the system described above. Lopez does not expressly disclose, but Latchinian discloses a door used for maintenance access to an apparatus. See Latchinian, col. 10, lines 17-29.

Regarding **Claim 9**, at the time of the invention, it would have been obvious to place an access door at the top of the housing of the coin acceptor/dispenser of Lopez' apparatus because it is necessary to obtain access to the internal coin holding area to remove or replenish coins as well as to effectuate repairs and maintenance, as further taught by Latchinian.

#### ***Response to Arguments***

4. Applicant's arguments with respect to Claims 8 and 9 have been considered but are moot in view of the new ground(s) of rejection. Lopez, Helbawi, Threadgill and newly cited Imes and Latchinian disclose, suggest and teach Applicant's claimed apparatus. Note that Helbawi provides teaching for disposing a proximity or photoelectric sensors in a side aperture of the tube through which balls are disposed for the purpose of detecting balls within the tube/pathway. Helbawi specifically teaches connecting the output signal of these sensors to a controller, which uses such signals to effectuate operation of the apparatus for dispensing coins or the functional equivalent to a user. Threadgill and Imes provides teaching for using a support bracket for the tube which engages the circumference of the tube in order to stabilize it. Finally, Latchinian

provides further teaching for incorporation of a maintenance access door in Lopez' apparatus.

**Conclusion**

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (571)272-6943. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick H. Mackey can be reached on (571)272-6916. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JAS

  
February 5, 2007

  
PATRICK MACKEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600